IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(*Special Original Jurisdiction*)

TUESDAY, THE TWENTY THIRD DAY OF JANUARY
TWO THOUSAND AND SEVEN

P R E S E N T

THE HON'BLE SRI JUSTICE B.PRAKASH RAO
AND
THE HON'BLE SRI JUSTICE M.VENKATESWARA REDDY

* * *

WP.No.8637 OF 2002

Between:

Deva Lakshmamma … Petitioner

Versus

The AP State Legal Services Authority
Represented by its Member Secretary
High Court Buildings, Hyderabad &
Others. … Respondents

Counsel for the Petitioner: M/s. M.N.Narasimha Redy

Counsel for the Respondents: Sri P.Veera Reddy

THE HON'BLE SRI JUSTICE B.PRAKASH RAO
AND
THE HON'BLE SRI JUSTICE M.VENKATESWARA REDDY

WP.NO.8637 OF 2002

O R D E R : (Per the Hon'ble Sri Justice B.Prakash Rao)

The petitioner herein, who claims to be the owner of the land at her village Pedinenikalva in T.Sundupalli Mandal, Kadapa district, filed this writ petition under Article 226 of the Constitution of India, inter alia, seeking a writ of certiorari, assailing the orders in LAA.No.10 of 2001 on the file of Mandal Legal Services Authority-cum-Senior Civil Judge, Rayachoti and the docket order passed on 19-1-2002 as illegal.

The case of the petitioner in brief is to the effect that in pursuance of the application filed by the respondents 3 and 4 before the MLSA, which was taken up as LAA 10 of 2000 and forwarded to the Station House Officer, T.Sundupalli Police Station, for enquiry. Later submitted the report in answer to the various allegations made including as to some encroachment made by the fourth respondent herein in survey No.796/1 of Peddinnenikalva village. In the said proceedings, the petitioner states that she had filed the application to implead herself under Order-1, Rule 10 of CPC on 19-1-2002. However, without properly considering the same or even otherwise the claim as made by her, the said MLSA passed the order under challenge which reads as follows:-

Both the parties present and the petition under Order-1. Rule 10 filed by Smt.D.Lakshmamma also present. Heard, it is ordered as per the report submitted by the S.I. of Police, T.Sundupalli, along with statements and survey plan done by the surveyor T.Sundupalli, I feel that an extent of 0.05 cents in survey no.796/1 was encroached by one T.Subba Redy, illegally, it is ordered that T.Subba Redy is directed to hand over the O.O5 cents of land in S.No 796/1 to the petitioner forthwith. The petitioner is at liberty to take police protection, if T.Subba Redy not hand over the encroached extent. In respect of other alienations, I feel no bonafide grounds. Hence petition is dismissed in respect of other allegations.

The contention on behalf of the petitioner is to the effect that apart from the fact that her case remained unconsidered nor proper opportunity was given and the said MLSA could not have passed such an order in exercise of powers as contemplated under the Legal Services Authorities Act, 1987 and the Rules made thereunder, inasmuch as it virtually touches upon the merits. Further it is pointed out that since there is no such settlement or award, there could not have been any direction especially for handing over any piece of property. On a consideration of the submissions made and the material placed on record, it is quite apparent that admittedly the present proceedings are arising in pursuance of the application filed by the third respondent complaining against the fourth respondent before MLSA, wherein on receipt of reply, the present order came to be passed. It is needless to reiterate that the

very object of the provisions of the said Act is provide an alternative remedy/settlement by way of conciliation but not to decide any rights of the parties inter se or any dispute arising between the parties inter se. In pursuance of any such application filed by any of the parties under section 20 of the said Act, the Legal Services Authority has to take cognizance of the case. It is relevant to note sub-section 3 to 6 of Section 20 of the Legal Services Authorities Act, 1987, which reads as follows:

> 20 (3) Where any case is referred to a Lok Adalat under sub-section (1) or where a reference has been made to it under sub-section (2), the Lok Adalat shall proceed to dispose of the case or mater and arrive at a compromise or settlement between the parties.
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> 20 (4) Every Lok Adalat shall, while determining any reference before it under this Act, act with utmost expedition to arrive at a compromise or settlement between the parties and shall be guided by the principles of justice, equity, fair play and other legal principles.
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> 20 (5) Where no award is made by the Lok Adalath on the ground that no compromise or settlement could be arrived at between the parties, the record of the case shall be returned by it to the court, from which the reference has been received under sub-section (1) for disposal in accordance with law.
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> 20 (6) Where no award is made by the Lok Adalath on the ground that no compromise or settlement could be arrived at between the parties, in a matter referred to in sub-section (2), that Lok Adalat shall advise the parties to seek remedy in a court.

On a careful reading of the above provision of law, it is quite apparent that the main endeavour is only when the matter arrives at a compromise or settlement between the parties or when no compromise or settlement could be arrived at between the parties, the record of the case shall be returned by it to the court, but no

power or jurisdiction is vested with any such Legal Services Authority to decide any dispute in the event of any failure in arriving such compromise or settlement. Sub-sections 5 and 6 amply make clear that the application has to be returned to the court and the parties should be advised to seek the remedy in a court of law.

. On a perusal of the orders passed by the Legal Services Authority, it is very unfortunate that the duties and powers conferred therein are apparently not being properly understood and taken care of by the authorities concerned or the Officer who is presiding over the Legal Services. Instead of making conciliation and settlement under the laudable object of providing alternative dispute system, approach of the deciding the rights of the parties by the Presiding Officer would only lead to multifarious litigation. The authorities concerned shall take proper steps and issue necessary instructions to all the concerned MLSAs in this regard at appropriate levels. A copy of this order shall be marked to the Secretary, Legal Services Authority, High Court of A.P. Hyderabad.

Therefore, a reading of the aforesaid docket order as pointed out by the learned counsel, it appears that the Presiding Officer of the Legal Services Authority has virtually gone into the merits of the case and without proper justification straightaway directed to hand over the property and further directed to take police protection, which is the order impugned in this writ petition, is totally beyond the scope and jurisdiction conferred under the Legal Services Authorities Act, 1987.

Prima facie, we are of the view that the impugned order under the very teeth of the Act, would mandate, as perverse and is wholly unsustainable and liable to be set aside. Accordingly, the impugned order is set aside.

The writ petition is accordingly allowed. No costs.

B.PRAKASH RAO, J.

M.VENKATESWARA REDDY, J.
23-1-2007.
IsL.